

§ 20.205

33 CFR Ch. I (7–1–10 Edition)

personal bias or other valid cause. The party shall file with the ALJ, promptly upon discovery of the facts or other reasons allegedly constituting cause, an affidavit setting forth in detail the reasons.

(1) The ALJ shall rule upon the motion, stating the grounds for the ruling. If the ALJ concludes that the motion is timely and meritorious, she or he shall disqualify herself or himself and withdraw from the proceeding. If the ALJ does not disqualify herself or himself and withdraw from the proceeding, the ALJ shall carry on with the proceeding, or, if a hearing has concluded, issue a decision.

(2) If an ALJ denies a motion to disqualify herself or himself, the moving party may, according to the procedures in subpart J of this part, appeal to the Commandant once the hearing has concluded. When that party does appeal, the ALJ shall forward the motion, the affidavit, and supporting evidence to the Commandant along with the ruling.

§ 20.205 Ex parte communications.

Ex parte communications are governed by subsection 557(d) of the Administrative Procedure Act (5 U.S.C. 557(d)).

§ 20.206 Separation of functions.

(a) No ALJ may be responsible to, or supervised or directed by, an officer, employee, or agent who investigates for or represents the Coast Guard.

(b) No officer, employee, or agent of the Coast Guard who investigates for or represents the Coast Guard in connection with any administrative proceeding may, in that proceeding or one factually related, participate or advise in the decision of the ALJ or of the Commandant in an appeal, except as a witness or counsel in the proceeding or the appeal.

Subpart C—Pleadings and Motions

§ 20.301 Representation.

(a) A party may appear—
(1) Without counsel;
(2) With an attorney; or
(3) With other duly authorized representative.

(b) Any attorney, or any other duly authorized representative, shall file a notice of appearance. The notice must indicate—

(1) The name of the case, including docket number if assigned;

(2) The person on whose behalf the appearance is made; and

(3) The person's and the representative's mailing addresses and telephone numbers.

(c) Any attorney or other duly authorized representative shall also file a notice, including the items listed in paragraph (a) of this section, for any withdrawal of appearance.

(d) Any attorney shall be a member in good standing of the bar of the highest court of a State, the District of Columbia, or any territory or commonwealth of the United States. A personal representation of membership is sufficient proof, unless the ALJ orders more evidence.

(e) Any person who would act as a duly authorized representative and who is not an attorney shall file a statement setting forth the basis of his or her authority to so act. The ALJ may deny appearance as representative to any person who, the ALJ finds, lacks the requisite character, integrity, or proper personal conduct.

§ 20.302 Filing of documents and other materials.

(a) The proper address at which to file all documents and other materials relating to an administrative proceeding is: U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022.

(b) The telephone number is: 410-962-5100.

(c) The fax number is: 410-962-1746.

(d) The appropriate party shall file with the Hearing Docket Clerk an executed original of each document (including any exhibit and supporting affidavit).

(e) A party may file by mail or personal delivery. The ALJ or the Hearing Docket Clerk may permit other methods, such as fax or other electronic means.

(f) When the Hearing Docket Clerk determines that a document, or other

material, offered for filing does not comply with requirements of this part, the Clerk will accept it, and may advise the person offering it of the defect, and require that person to correct the defect. If the defect is failure to serve copies on other parties, the parties' response period begins when properly served.

§ 20.303 Form and content of filed documents.

(a) Each filed document must clearly—

- (1) State the title of the case;
- (2) State the docket number of the case, if one has been assigned;
- (3) Designate the type of filing (for instance: petition, notice, or motion to dismiss);
- (4) Identify the filing party by name and capacity acted in; and
- (5) State the address, telephone number, and any fax number of the filing party and, if that party is represented, the name, address, telephone number, and any fax number of the representative.

(b) Each filed document must—

- (1) Measure 8½ by 11 inches, except that a table, chart, or other attachment may be larger if folded to the size of the filed document to which it is physically attached;
- (2) Be printed on just one side of the page and be clearly typewritten, printed, or otherwise reproduced by a process that yields legible and permanent copies;
- (3) Be double-spaced except for footnotes and long quotations, which may be single-spaced;
- (4) Have a left margin of at least 1½ inches and other margins of at least 1 inch; and
- (5) Be bound on the left side, if bound.

(c) Each filed document must be in English or, if in another language, accompanied by a certified translation. The original of each filed document must be signed by the filing party or her or his representative. Unless the rules in this part or the ALJ requires it to be verified or accompanied by an affidavit, no filed document need be. The signature constitutes a certification by the signer that she or he has read the document; that, to the best of her or

his knowledge, information, and belief, the statements made in it are true; and that she or he does not intend it to cause delay.

(d) Complaints, answers, and simple motions may employ forms approved for use in proceedings of the Coast Guard instead of the format set out in this section.

§ 20.304 Service of documents.

(a) The ALJ shall serve upon each party to the proceeding a copy of each document issued by the ALJ in it. The ALJ shall serve upon each interested person, as determined under § 20.404, a copy of the notice of hearing. Unless this part provides otherwise, the ALJ shall upon request furnish to each such interested person a copy of each document filed with the Hearing Docket Clerk or issued by the ALJ.

(b) Unless the ALJ orders otherwise, each person filing a document with the Hearing Docket Clerk shall serve upon each party a copy of it.

(c) If a party filing a document must serve a copy of it upon each party, each copy must bear a certificate of service, signed by or on behalf of the filing party, stating that she or he has so served it. The certificate shall be in substantially the following form:

I hereby certify that I have served the foregoing document[s] upon the following parties (or their designated representatives) to this proceeding at the addresses indicated by [specify the method]:

- (1) [name, address of party]
- (2) [name, address of party]

Done at _____, this _____ day of _____, 19____ or 20____.

[Signature]

For

[Capacity].

(d) This table describes how to serve filed documents.

TABLE 20.304(d)—HOW TO SERVE FILED DOCUMENTS

Type of filed document	Acceptable methods of service
(1) Complaint	(i) Certified mail, return receipt requested. (ii) Personal delivery. (iii) Express-courier service that has receipt capability.